

SUBCHAPTER 8  
OCCUPANCY AND USE

**200-42. Certificate of Occupancy. 1.**

**DEFINITION.** In this section, “offer” means to communicate a willingness, desire or intent.

**2. WHEN REQUIRED.** a. It shall be unlawful to occupy or use, or offer to occupy or use any building, structure or premises now existing or hereafter erected unless or until a certificate of occupancy has been issued by the commissioner of city development, except as provided in s. 200-43 and s. 295-303. A separate certificate of occupancy shall be obtained for each occupancy and use stated in ch. 295 or any other regulation of this code. A new certificate of occupancy shall be required each time there is a change in the operator or tenant of a non-residential premises.

b. It shall be unlawful to maintain, occupy or use, or offer to maintain, occupy or use, any building, structure, premises or part thereof that has been erected, constructed, altered or changed, occupied or used in violation of any regulation of this code or other laws or in violation of the code or other laws which were in effect and which applied to any existing building, structure, or premises, or part thereof at the time of its erection, construction, alteration, or change and designated occupancy or use.

c. Unless and until a new certificate of occupancy has been issued by the commissioner, it shall be unlawful to occupy any building, structure or premises or part thereof which is vacant under any of the following circumstances:

c-1. It has been found unfit for human habitation or use under any order issued in accordance with this code requiring the repair, alteration, vacation, removal or demolition.

c-2. It has been vacant for a period in excess of 6 months.

c-3. It is subject to orders regulating vacant buildings under s. 275-32-7 and the order specified that the internal conditions of the property do not comply with code requirements and that a certificate of occupancy shall be obtained.

d. Where any of the conditions described in pars. c-1 and 3 are found, the premises shall be placarded and shall not be occupied until a certificate of occupancy is first obtained.

e. Unless and until a new certificate of occupancy has been issued by the commissioner of city development, it shall be unlawful to occupy any building or structure if it has been licensed as a rooming house, the license expires and is not renewed, or the license is revoked.

**3. WHEN ISSUED.** a. In the case of a proposed use, as described in ch. Comm 62, Wis. Adm. Code, as amended, that is not within the same group of uses as the prior use, and where the proposed use is as hazardous or more hazardous, based on life and fire risk, than the prior use, or whenever the proposed use is an elementary or secondary school, or a daycare or a rooming house, or a tavern or a sit-down restaurant, as described under s. 295-201-501, or where otherwise requested, the commissioner of city development shall issue a certificate of occupancy:

a-1. After an application has been filed in the commissioner's office by the owner, agent or tenant.

a-2. After an inspection or reinspection of the building, structure, premises or part thereof by the commissioner of neighborhood services finds no violations of the regulations of this code applicable to the proposed use.

b. Unless otherwise required by law, in the case of a proposed use, as described in ch. Comm 62, Wis. Adm. Code, as amended, that is within the same group of uses as the prior use, or in the case of a proposed use that is not within the same group of uses as the prior use and that is less hazardous, based on life and fire risk, than the prior use, except whenever the proposed use is an elementary or secondary school, a daycare, a rooming house, a tavern or a sit-down restaurant, as described under

s. 295-201-501, or where otherwise requested, the commissioner of city development shall issue a certificate of occupancy indicating conformance with the use requirements set forth in ch. 295 and:

b-1. After an application has been filed in the commissioner's office by the owner, agent or tenant.

b-2. After investigation it is found that such building, structure, premises or part thereof complies with all zoning laws applicable to its use.

b-3. After a plumbing inspection to determine that the building, structure, premises or part thereof complies with all applicable

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plumbing regulations, if the proposed use is a fast-food/carry-out restaurant as described under s. 295-201-499.

b-4. After a zoning inspection to determine that the building, structure, premises or part thereof complies with all applicable zoning regulations, if the proposed use is for light or heavy motor vehicle uses including sales, rental and repair facilities, body shops, outdoor storage, and parking lots where parking is the principal use of the premises.

c. If a building, structure, premises or part thereof has been vacant for more than 6 months, the inspection requirements set forth in par. a shall apply.

**4. REQUIRED INFORMATION.** a. Such certificates of occupancy shall indicate the use of the building, structure or premises or part thereof.

b. An application for a certificate of occupancy submitted by a tenant or prospective buyer shall be accompanied by a written statement by the applicant that the owner or owner's agent has granted permission for the necessary inspections of the premises.

**5. CERTIFICATE TO BE POSTED.** The certificate of occupancy shall be posted in a conspicuous place in the building, structure or on the premises except one-family and 2-family dwellings and accessory buildings or structures thereto.

**6. PENALTY.** Any person who violates any of the provisions of this section shall be subject to penalty pursuant to s. 200-19.

**200-43. Temporary Certificate of Occupancy.** A temporary certificate of occupancy may be issued by the commissioner of neighborhood services for the temporary occupancy and use of any building, structure or premises or part thereof, prior to the completion of the same and the issuance of a final certificate of occupancy, provided that such occupancy or use would not jeopardize life, health or property. The commissioner of neighborhood services is authorized to require whatever temporary precautionary measures over and above any code requirements to safeguard the public as a condition of the issuance of a temporary certificate of occupancy.

**200-44. Nonconforming Occupancy or Use of Building.** Nothing in this code shall require the

removal, alteration, or abandonment of, nor prevent the continuance of a legal nonconforming original or changed occupancy or use of a building, structure, or premises or part thereof, lawfully existing at the time of the adoption of this code, except as required by the provisions of s. 295-415. Legal nonconforming structures can be converted to less restrictive occupancies provided said occupancy complies with the regulations of ch. 295.

**200-45. Approval of Existing Occupancies.** Upon written request from an owner, the commissioner of city development shall certify and issue a certificate of legality for the continuance of an existing occupancy or use of any existing building, structure, premises, or part thereof, if, after verification of the records on file in the commissioner's office, and after inspection, it is found that such occupancy or use is a permitted and lawful occupancy or use under current code requirements, and, provided further, that no fire hazards or other hazards are found in such building, structure, premises or part thereof.

**200-46. Changes in Occupancy or Use. 1.** No change in any occupancy or use as described in ch. Comm 62, Wis. Adm. Code, as amended, of an existing building, structure, premises or part thereof shall be permitted that is not consistent with a lawful occupancy or use permitted under a prior certificate of occupancy, or which is not based upon the requirements applicable to types of construction and zoning as regulated by this code.

**2.** No change from one group of occupancies to another group of occupancies as described in ch. Comm 62, Wis. Adm. Code, as amended, shall be permitted unless after inspection it is found that such building, structure, premises or part thereof conforms to the regulations of this code relating to the proposed new occupancy and use and required types of construction.

**200-47. Authority for Change in Occupancies and Uses.** The commissioner of city development is authorized to approve any change in the occupancy and use of any existing building, structure, or premises or part thereof within any one group of occupancies and uses, as regulated by this code, if the proposed occupancy or use does not fully conform to all of the regulations of this code applicable thereto, provided it is obvious that such change in the occupancy or use will not

extend or increase the hazards of fire, health, and public safety, and when not in violation of the regulations of ch. 295.

**200-48. Abandonment of Occupancy, Use Rights and Privileges.** Whenever a lawful nonconforming occupancy or use of any existing building, or structure, premises or part thereof is changed to an occupancy or use conforming to the regulations of ch. 295 or to a conforming type of construction applicable to such building, structure, premises, or part thereof, as regulated by this code, thereafter any such existing building, structure, premises or part thereof shall not again be occupied or used for any nonconforming occupancy and use rights and privileges. If a nonconforming building or structure, or use is abandoned for one year, the legal nonconforming use of occupancy of that building or structure shall cease and the use of that building or structure shall thereafter be restricted to a legal use or occupancy. If a nonconforming open storage occupancy and use on any premises is vacated for a period of 6 months, then any future occupancy and use of the premises shall conform to the regulations of ch. 295.

**200-49. Voiding of Occupancy Applications.** If an applicant for a certificate of occupancy does not make use of the application, either by not using the premises or not complying with required regulations of the code within a period of 6 months, such application shall be declared void and no new use of the premises shall be made until a new certificate of occupancy or certificate of zoning has been procured.

**200-50. Change in Floor Loads.** If the occupancy or use of any existing building or structure or part thereof is changed to any occupancy or use permitted by this code but imposing greater floor loads, then the structural and load carrying portions of such building or structure shall be strengthened to conform with the regulations of this code for such new occupancy or use.

**200-51. Rental Units. 1. INSPECTION.** Any owner of a rental dwelling unit may request that such unit be inspected by the commissioner. The commissioner shall examine such dwellings to determine if they conform to code standards. Should the commissioner find code violations,

the appropriate building code orders will be issued.

**2. ISSUANCE OF CERTIFICATE.** Once the dwelling unit or units conform to code, the commissioner of city development shall issue a certificate of occupancy which shall contain the following information:

- a. The address of the property.
- b. The owner's name.
- c. A statement specifying that the dwelling unit conforms to all requirements of ch. 275.
- d. The date of such conformance.
- e. The signature of the commissioner of city development.

**200-51.5. Property Recording. 1. PURPOSE.** Recording of residential and commercial buildings, and condominium units and associations is essential for the proper enforcement of the city's building and zoning code and to safeguard persons, property and general welfare.

**2. DEFINITIONS.** In this section:

- a. "Condominium association" means an association, as defined in s. 703.02 (1m), Wis. Stats.

- b. "Condominium-resident agent" means a resident agent as defined in s. 703.23, Wis. Stats.

- c. "Common elements" means common elements as defined in s. 703.02 (2), Wis. Stats.

- d. "Domicile" means the building or unit at issue which is the owner's true, fixed and permanent home where the individual intends to remain permanently and indefinitely, and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time. It is the one residence that controls for determining the owner's legal rights and privileges such as voting rights, vehicle registration, driver licensure.

- e. "Local operator" means a person with charge, care, and control of the property, and in the case of a condominium association, a person with charge, care, and control of the condominium common elements.

- f. "Owner" means each person who jointly or severally is vested with all or part of legal title to (or beneficial ownership of) the premises, and who has the right to present use and enjoyment of the premises. The term includes, but is not limited to, a mortgagee in possession, a

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trustee, a trust, a life-estate holder, a remainderman, a condominium association, a land-contract seller, a land-contract buyer, a general partnership, a limited partnership, a limited liability partnership, a corporation, a limited liability company, and a cooperative.

g. "Owner-occupied" means the owner is domiciled in the subject building or unit.

h. "Person" means an individual or entity.

i. "Physical address" means a unit-specific building or house number and street name, not a post-office box or commercial alternative to a post-office box.

j. "7-county area" means the area within Milwaukee, Ozaukee, Kenosha, Racine, Walworth, Washington and Waukesha counties.

### 3. APPLICATION AND RECORDING REQUIRED.

a. Recording Required. Except as specified in sub. 4, the following shall file with the department on forms provided by the department, an application for recording in compliance with this section:

a-1. Owners of residential or commercial buildings. One application for each tax-key-numbered parcel containing a residential or commercial building.

a-2. Owners of commercial condominium units. One application for each tax-key-numbered unit.

a-3. Owners of non-owner-occupied residential condominium units. One application for each tax-key-numbered unit.

a-4. Condominium associations. One application for the common elements that are part of the condominium.

b. Multiple Buildings on Same Tax-Key Number. Multiple buildings on a parcel with a single tax key number shall be recorded on one application.

c. Local Operator Required If Owner or Condominium-Resident Agent is Outside 7-County Area. If the owner's principal place of business, in case of an entity, or owner's domicile, in the case of non-entity ownership, or the condominium-resident agent's domicile, in the case of a condominium association, is outside of the 7-county area, the owner, or, as the case may be, the condominium association, shall have a local operator with a physical address and domicile within the 7-county area with authority to accept notice of violations or enforcement of this section.

d. Recording After Death. In the event of death of the owner of a building or condominium unit required to be recorded under this section, the subsequent owner shall file an application within 15 days after conveyance from the estate or other acquisition of interest. In the event of death of the condominium-resident agent of a condominium association required to be recorded under this section, the association shall have 60 days after that death to file an application naming a new condominium-resident agent. In the event of death of a local operator required under this section, the owner or condominium association, as the case may be, shall have 60 days after that death to file an application naming a new local operator.

e. Recording After Conveyance or Change in Ownership. In the event of any conveyance of any building or condominium unit required to be recorded under this section, the new owner shall file a new application for recording and pay the fee required within 15 days of the date of conveyance, or if the conveyance is by sale after foreclosure, then within 15 days of the date of court-confirmation of the sale. New applications are required in the event of change in ownership, including, but not limited to, conveyances between an individual and a business entity, and conveyances between business entities.

f. Satisfaction of Land Contracts. Upon satisfaction of a land contract recorded hereunder, the land-contract seller shall file a seller notification hereunder, and the land-contract buyer who has acquired the fee interest in the building or condominium unit shall file a new application.

4. EXCEPTIONS. The following are exempt from having to file applications for recording required under this section:

a. Owners of owner-occupied one and 2-family buildings where the ownership is recorded with the Milwaukee county register of deeds.

b. Owners of owner-occupied residential-condominium units where the ownership is recorded with the Milwaukee county register of deeds.

c. Owners of jails, convents, monasteries, parish rectories, parsonages and similar facilities where the ownership is recorded with the Milwaukee county register of deeds.

d. Owners of hospitals and residential facilities licensed by the city of Milwaukee or the state of Wisconsin where the ownership is

recorded with the Milwaukee county register of deeds.

e. Government-owned buildings where the ownership is recorded with the Milwaukee county register of deeds.

f. Owners of newly-constructed residential and commercial buildings where the ownership is recorded with the Milwaukee county register of deeds until actual occupancy of any such building or any unit in any such building commences.

g. Owners of residential and commercial buildings and owners of condominium units, owned for less than 15 days prior to sale or other transfer of the buildings or units to new owners. However, anyone acquiring from such owner shall file an application unless otherwise exempt under this subsection.

h. Condominium associations responsible for 2-unit residential buildings.

**5. APPLICATION. a. Signing.**

a-1. Completed applications shall be signed by at least one of the owners, or, in the case of a condominium association, by the association's current condominium-resident agent, and in any case involving a local operator, also by the local operator.

a-2. Signatures on the application shall be notarized under penalty of s. 946.32, Wis. Stats

a-3. In the case of an application involving a land contract, at least one land-contract seller and one land-contract buyer shall sign and file the same application for the subject property and provide the respective names, addresses and telephone numbers of both parties on the same application form.

b. Required Contents. Application forms shall be provided by the department and shall at least contain the following:

b-1. The tax-key number of the parcel containing the residential or commercial building or condominium unit.

b-2. The legal name and date of birth of the property owner or in the case of an application filed by a condominium association, the legal name and date of birth of the condominium-resident agent.

b-3. A business or personal physical address and a business or personal telephone number of the owner, or in the case of a condominium association, of the condominium-resident agent, where that person can be contacted readily by the department.

b-4. An entity-owner shall provide the name and address of its registered agent on file

with the Wisconsin department of financial institutions, the name and address of its registered agent on file in the state or jurisdiction of entity origin, and also a natural person's name, physical address and telephone number for department contact.

b-5. The legal name, physical address within the 7-county area, date of birth, and telephone number of the local operator.

b-6. The number of residential dwelling units in residential buildings, or in the case of filings for condominium units or condominium associations, the number of units in the condominium.

b-7. For an application filed by a condominium association, the name and address of the association, the type of entity that the association is, whether the association is self-managed or has hired or retained management, and the identity of any hired or retained management.

**6. APPLICATION FEES; FEE EXCEPTIONS; CHANGES IN INFORMATION.**

a. If any information listed on a previously filed application changes, within 15 days of the change in information a new application shall be filed with, and the requisite fee shall be paid to, the department. Any application filed later than that 15-day period shall result in doubling of the fee and subject the required filer to sanctions.

b. Except as provided in par. a, there shall be no fee for the filing of an amendment to an existing application where the change in information does not involve a change of ownership interest in the property; where the change in information is associated with a land-contract buyer paying off the land contract and becoming the fee-title holder or with the land-contract relationship otherwise being extinguished; or where the change in information results from the sale or transfer of ownership between husband, wife, father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson or granddaughter.

c. There shall be no fee for the filing of an application, but an application is required, for a one or 2-family residential building or a residential condominium unit where that building or unit has been conveyed to a grantee with a life estate, or an estate for years, or where the grantor has made a conveyance but reserved a life estate, or an estate for years, where the conveyance is recorded with the Milwaukee county register of deeds, and where at least one of the grantors or one of the grantees is

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domiciled in the building or unit after the conveyance.

d. There shall be no fee for the filing of an application, but an application is required, for a one or 2-family residential building or a residential condominium unit where that building or unit has been conveyed to a trust, where the conveyance is recorded with the Milwaukee county register of deeds, and where at least one trust settler or one trust beneficiary is domiciled in the building or unit after the conveyance.

e. The commissioner may refund fees paid in error to the department.

f. See s. 200-33-44.2 and 44.3 for fees associated with this section.

### **7. SELLER NOTIFICATION FORMS.**

a. The department shall provide seller notification forms.

b. An owner who conveys any ownership interest in any building or condominium unit required to be recorded under this section shall file a seller notification form with the department within 15 days of the conveyance, providing the name and address of the buyer and date of conveyance. There shall be no fee for the filing of a seller notification form; providing, however, there shall be a charge of double the fee in s. 200-33-44.3 if the conveying owner was also required, but failed to, file an application under this section.

c. Upon satisfaction of a land contract recorded under this section, the land-contract seller shall file a seller notification form with the department within 15 days after the satisfaction, providing the name and address of the land-contract buyer and date of conveyance in satisfaction of the land contract. There shall be no fee for the timely filing of a seller notification form; providing, however, there shall be a charge of double the fee in s. 200-33-44.3 if the conveying land-contract seller was also required, but failed to, file an application under this section.

**8. SERVICE OF ORDER.** a. Any order issued under this section shall identify the section of the code to which the order applies in accordance with s. 200-12-2-b.

b. Service of orders shall be in accordance with s. 200-12-3.

c. The order may also be posted on the premises.

d. The commissioner may issue an order to the owner, the condominium association, the condominium-resident agent, or the local operator, requiring the owner or condominium association to comply with this section.

### **9. ENFORCEMENT; SANCTIONS.**

a. **Enforcement Fee.** If there is a failure to comply within the time set forth in any order issued under this section, or a failure to file an application as required under this section within the time set forth in this section, the commissioner may assess the owner or association a monthly recording enforcement fee under s. 200-33-44.3 until compliance is obtained. The fee may be assessed and collected as a special tax on the property or otherwise be collected as allowed by law.

b. **Penalties.** Any owner, former owner, or condominium association failing to comply with this section or providing false, misleading or fraudulent information on any application required under this section shall be subject to the penalties provided in s. 200-19. Any local operator or condominium-resident agent providing false, misleading or fraudulent information on any application required under this section shall also be subject to the penalties provided in s. 200-19.

**10. APPEALS.** Appeals of orders and notices under this section shall be made pursuant to s. 200-17.

## **200-51.7. Vacant Building Registration.**

**1. FINDINGS.** The common council finds that a significant relationship exists between vacant buildings and increased calls for service for police services, higher incidence of fires, both accidental and intentional, and decline and disinvestment in neighborhoods. Vacant buildings become havens for vandalism, arson and drug crimes, representing not only a clear drain of valuable governmental resources, but also creating a significant reduction of the quality of life for the surrounding neighborhood. Registration, inspection and aggressive monitoring of vacant properties helps stabilize and improve impacted neighborhoods and helps in the development of code enforcement efforts as well as public safety. The common council further finds that a property owner or entity functioning as a trustee of an owner that does not register, permit inspection, insure, secure and maintain a vacant building places an undue and inappropriate burden on the taxpayers of the city and poses an increased risk to public safety. The common council therefore directs the chief of police, fire chief and the commissioner of neighborhood services, as provided in this section, to charge the owner or entity functioning as a trustee of an owner of such property the costs of any public safety services rendered to

the property while non-compliant with this section.

**2. PURPOSE.** Registering of residential buildings or any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses is essential for the proper enforcement of the city's building, fire and zoning code and to safeguard persons, property and general welfare. Residential condominium and rental units are excluded from this section provided the vacancy rate of the building they are situated in does not exceed 95%.

**3. DEFINITIONS.** In this section:

a. "Owner" means the person in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and right to present use and enjoyment of the premises.

b. "Secured" means a building that has a permanent door or window in each appropriate building opening that is secured to prevent unauthorized entry and has all its door and window components, including frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes intact and unbroken.

c. "Vacant" means a building which lacks habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business or construction operation or residential occupancy is at a level of at least 95% vacant. An owner occupied single family home or owner occupied 2-family dwelling residential property shall not be deemed vacant if it has been used as a residence by the owner for a period of at least 3 months within the previous 9 months and the owner intends to resume residing at the property.

d. "Violation" means that an order has been issued by the department and the conditions forming the basis for the order have not been fully abated.

e. "Unsecured" means any building that does not meet the definition of secured.

**4. REGISTRATION REQUIRED.**

a. The owner of any building that has become vacant shall within 30 days after the building becomes vacant or within 30 days after assuming ownership, whichever is later, file a registration statement and pay a registration fee as prescribed in s. 200-33-64 for each such building with the department on forms provided by the department.

b. In addition to other information, the registration statement shall include the name, street address and telephone number of a

person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of the owner or owners in connection with the enforcement of this section. This person shall reside within the 7-county area as described in s. 200-51.5-2-j.

c. The owner shall be required to renew the registration for successive 6-month periods as long as the building remains vacant and shall pay a registration renewal fee as prescribed in s. 200-33-64 for each registered building.

**5. EXEMPTIONS.** The following are exempt from the provisions of this section:

a. Property owned by governmental bodies and the housing authority.

b. Abandoned residential property pending foreclosure while subject to s. 200-22.5.

c. Property that is vacant as a result of a natural disaster and covered by emergency response requirements issued by the commissioner.

d. Property that is undergoing an active renovation or rehabilitation.

e. A single family home or owner-occupied 2-family dwelling residential property that has been used as a residence by the owner for a period of at least 3 months within the previous 9 months and the owner intends to resume residing at the property.

f. Residential condominium and rental units in buildings whose vacancy rate does not exceed 95%.

g. Properties that are part of an estate that is in probate and are not subject to bankruptcy provided the personal representative or executor resides in the 7 county area as defined in 200-51.5-2-j.

**6. OWNER RESPONSIBILITIES.** The owner of any building that has become vacant shall:

a. Enclose and secure the building as provided in sub. 7.

b. Maintain the building in a secure and closed condition until the building is again occupied or demolished.

c. Acquire or otherwise maintain liability insurance in an amount not less than \$300,000 for buildings designed primarily for residential use and not less than \$1,000,000 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by

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any physical condition of or in the building. Evidence of this insurance shall be available at the request of the commissioner.

d. Post a sign affixed to the building indicating the name, address and telephone number of the owner, and if applicable, the owner's authorized agent for the purpose of service of process. The name, address and telephone number of a person responsible for day-to-day supervision and management of the building, if the person is different from the owner holding title or authorized agent, shall be indicated on the sign as well. This person shall reside within the 7-county area as identified in s. 200-51.5-2-j. The sign shall also state that no trespassing is allowed upon the premises without consent of the owner or owner's agent. The sign shall be placed on or adjacent to all entrances to the building. The sign shall be maintained until the building is no longer vacant.

7. MINIMUM REQUIREMENTS FOR VACANT BUILDINGS. After filing a registration statement the building owner shall provide access to the city to conduct an exterior and interior inspection of the building to determine compliance with this section, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. Failure to provide access to the property on the scheduled time shall subject the property owner to the fees specified in s. 200-33-64-g. In addition to any other applicable requirements, vacant buildings shall comply with the following requirements:

a. Lot Maintenance Standards. Lot maintenance standards include the lot the building stands on and the surrounding public way and shall meet the following:

a-1. All grass and weeds on the premises including abutting sidewalks, gutters and alleys shall be kept below 9 inches in height and all dead or broken trees, tree limbs or shrubbery shall be cut and removed from the premises.

a-2. Any public sidewalk adjoining the lot shall be shoveled clear of snow so as to comply with s. 79-13.

a-3. Junk, rubbish, waste and any material that creates a health, safety or fire hazard, including but not limited to any mail or flyers that have been delivered to the building, shall not be permitted to accumulate on any portion of the exterior lot of the building.

a-4. No portion of the lot nor any structure, vehicle, receptacle or object on the premises shall be maintained or operated in any manner that causes or produces any health or

safety hazard or permits the premises to become a rodent harborage or is conducive to rodent harborage.

a-5. The lot shall be maintained so that water does not accumulate or stand on the ground.

a-6. All fences and gates shall be maintained in sound condition and in good repair.

b. Exterior Maintenance Standards. The exterior of the building shall be enclosed, secured and maintained to meet the following:

b-1. Foundations, basements, cellars and crawlspaces shall be maintained in sound and watertight condition adequate to support the building and protected against the entry of rodents or other animals.

b-2. Exterior walls shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or the interior spaces and shall be protected against the entry of rodents or other animals.

b-3. Exterior windows and doors shall be maintained in sound condition and good repair and prevent rain from entering the building, or the opening shall be secured in accordance with s. 275-32-7. The windows and doors shall be equipped with hardware for locking and the locking mechanism shall be maintained in properly functioning condition. All points of possible ingress and egress shall be secured to prevent unauthorized entry.

b-4. The roof shall be adequately supported and maintained in weathertight condition; the gutters, downspouts, scuppers and appropriate flashing shall be in good repair and adequate to remove the water from the building.

b-5. Chimneys and flues shall be kept in sound, functional, weathertight condition and in good repair.

b-6. Every outside stair or step shall be maintained in sound condition and in good repair; every porch, stoop, deck, veranda, balcony and walk shall be maintained in sound condition for its purpose.

c. Interior Maintenance Standards. The interior of any building shall be maintained in accordance with the following:

c-1. It is prohibited to accumulate or permit the accumulation of junk, trash, debris, boxes, lumber, scrap metal or any other materials that may produce any health, fire or safety hazard, or provide harborage for rodents or other animals.

c-2. Every foundation, roof, floor, wall, stair, ceiling or other structural support shall be safe and capable of supporting the loads

associated with normal usage and shall be kept in sound condition and repair.

c-3. Any plumbing fixtures shall be maintained with no leaking pipes, and all pipes for water shall either be completely drained or heated to resist being frozen.

c-4. Every exit door shall be secured with an internal deadbolt lock, or with a locking mechanism deemed equivalent or better by the department, and every exit door shall be capable of being opened from the inside easily and without the use of a key or special knowledge.

c-5. Interior stairs shall have treads and risers that have uniform dimensions, are sound, securely fastened and have no rotting, loose or deteriorating supports.

c-6. Every owner shall be responsible for the extermination of insects, rodents and other vermin in or about the premises.

d. Building Security Standards. The following apply to the securing of vacant buildings:

d-1. All building openings shall be closed and secured, using methods and materials so as to comply with the requirements of s. 275-32-7.

d-2. If a building has been vacant for 6 months or longer, or upon any renewal of the registration statement, the building owner shall implement and provide proof satisfactory to the department that in addition to complying with the security standards in subd. 1, it is secured. If the building fails to be secured as determined by the commissioner or the commissioner's designee, then the building shall be boarded in accordance with s. 275-32-7.

d-3. If the owner has provided proof that a building is secured and based on an inspection by the department the building is found to be in violation, the commissioner shall send by first class mail a written notice of the violation to the person responsible for day-to-day supervision and management of the building or to the authorized agent for service of process or to the owner of record. Within 30 days of the mailing of the notice of violation, the owner shall be required to either comply with subd. 2 or restore the building to a secured state and also install and maintain a working alarm system. The alarm system shall connect to all areas of the building subject to unauthorized human entry, including but not limited to, all exterior doors, windows or other readily accessible openings. The alarm system shall, upon detecting unauthorized entry, send an automatic signal to a licensed alarm business

that has 24-hour live operators who will monitor the system and contact the building owner or designated agent.

**8. ISSUANCE OF MODIFICATIONS.**

Upon written application by an owner or an owner's agent, the commissioner may approve a modification of any provision of this section, including the requirement for inspections and fees, provided the spirit and functional intent of the section will be observed and the public health, welfare and safety will be assured. The decision of the commissioner concerning a modification shall be made in writing and the application for a modification and the decision of the commissioner concerning such modification shall be retained in the permanent records of the department.

**9. RULES AND REGULATIONS.**

The commissioner may issue rules and regulations for the administration of this section. These rules may specify additional board-up materials which may be used when securing a building, if proof is provided satisfactory to the commissioner that the materials will perform in a manner equivalent to, or better than, the materials specified in this section.

**10. PENALTY.**

a. Failure to Register. Any property owner or entity functioning as a trustee of an owner, that fails to register a vacant building as required under sub. 4 shall, upon conviction, forfeit not less than \$500 nor more than \$2,000, together with the cost of the action, and in default of payment thereof may be imprisoned in an appropriate county facility as allowed by law.

b. Failure to Secure and Maintain. Any property owner or entity functioning as a trustee of an owner, having a duty to register a vacant building that fails its duty to secure and maintain the property as required under sub. 6 or 7 shall, upon conviction, forfeit not less than \$350 nor more than \$1,500, together with the cost of the action, and in default of payment thereof may be imprisoned in an appropriate county facility as allowed by law.

**11. CHARGE FOR PUBLIC SAFETY SERVICES.**

a. Any property owner or entity functioning as a trustee of an owner that fails to comply with any provision of this section shall be charged for any public safety services rendered to the property by the police department or fire department while non-compliant with this section. The chief of police or fire chief shall provide a record of each service rendered to the property and the costs of services, investigation, administration and enforcement to the

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commissioner of neighborhood services. The costs of the services, investigation, administration and enforcement by any police or fire personnel may be charged to the owner or entity functioning as a trustee of an owner and in whole or in part. Appeal of the determination of the chief of police or fire chief imposing costs against the owner or entity functioning as a trustee of an owner may be submitted to the administrative review appeals board as provided by s. 320-11.

b. **Cost Recovery.** Upon receipt of a cost referral letter from the chief of police or fire chief pursuant to par. a., the commissioner of neighborhood services shall charge any premises owner or entity functioning as a trustee of an owner found to be in violation of this section the costs of enforcement, including administrative costs, in full or in part. A notice of intent to charge shall be issued to the premises owner or entity functioning as a trustee of an owner along with notice that, if the property is brought into compliance with the vacant building registration program within 30 days of the notice, the public safety service charge shall not be issued. If the property is not brought into compliance within 30 days, all costs shall be charged as a lien upon such premises and may be assessed and collected as a special charge. The commissioner shall establish a reasonable charge for the costs of administration and enforcement of this section.

### 200-52. Certificate of Code Compliance.

1. **POLICY.** The common council declares that its purposes in adopting these provisions are: to forewarn and protect buyers against dangerous or unsatisfactory housing conditions; to preserve the existing housing stock; to prevent the deterioration of residential buildings that may result in substantial depreciation of property values in the neighborhood; and to implement an effective method of enforcing the city's building maintenance code developed to ensure basic standards of livability and habitability as well as to enhance the quality of life in an urban environment. It is the intent of the common council that this section apply to sale, transfer or conveyance of ownership of real property involving any change in the form of ownership of the property.

2. **DEFINITIONS.** In this section:

a. **Building maintenance code"** means that portion of the building code which establishes the minimum requirements and standards of health, sanitation, safety and

occupancy for residential property. These code regulations governing the condition and maintenance of residential property, and the responsibility of persons therefore, are set forth in s. 275-32 to 275-82.

b. **Certificate of code compliance"** means a written and signed statement prepared by the commissioner after an inspection has been made, that the exterior condition of a dwelling is in compliance with the building maintenance code.

c. **Designated reinvestment areas"** means all of the following areas:

c-1. **Designated reinvestment area number 1** means the area comprised of census tracts 158 to 163, 169 partially, and 170 which is bounded clockwise by West Pierce Street, South 16th Street, South Pearl Street, South 17th Street, West Mitchell Street, South 18th Street, West Burnham Street, South Muskego Avenue, West Becher Street, South 31st Street, West Lapham Street, South 38th Street, West Mitchell Street, South 39th Street, west along city limits, South 42nd Street, West Lapham Street, South 43rd Street, West Greenfield Avenue, South 38th Street, West National Avenue, and South 39th Street.

c-2. **Designated reinvestment area number 2** means the area comprised of census tracts 47, 48, 62, 63 and 65 which is bounded clockwise by West Capitol Drive, North 20th Street, West Auer Avenue, North 27th Street, West Locust Street, North 35th Street, West Wright Street, North 41st Street, West Locust Street, North Sherman Blvd., West Keefe Avenue and North 35th Street.

c-3. **Designated reinvestment area number 3** means the area comprised of census tracts 90, 91, 92, 96, 123, and 124 partially which is bounded clockwise by West Wright Street, North 35th Street, West Wisconsin Avenue, the Menomonee River, Stadium Freeway North (U.S. Hwy. 41), North 47th Street, West Brown Street and North 52nd Street.

c-4. **Designated reinvestment area number 4** means the area comprised of census tracts 44 to 46, which is bounded clockwise by East Keefe Avenue, West Keefe Avenue, North 20th Street, West Capitol Drive, North Port Washington Road to the Milwaukee city limits, following said limits to the intersection of the Milwaukee River and East Keefe Avenue.

c-5. **Designated reinvestment area number 5** means the area comprised of census tracts 71, 72, 79 and 80, which is bounded clockwise by the Milwaukee River, and East North Ave., to North Humboldt Blvd., East Wright

Street, North Holton Street, and East Keefe Ave. to the Milwaukee River.

c-6. Designated reinvestment area number 6 means the area which is bounded clockwise by West Lincoln Avenue, Interstate 43/94, West Rosedale Avenue, South 6th Street, West Cleveland Avenue and South 13th Street.

d. "Dwelling" means a one- or 2-family residential structure including all appurtenances, grounds and facilities belonging thereto.

e. "Owner" means the person in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and right to present use and enjoyment of the premises.

f. "Person" includes an individual, a partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.

g. "Sale, transfer or conveyance of ownership" means to transfer any ownership interest in a dwelling except by mortgage, gift, devise or bequest. The sale or transfer shall be deemed to occur upon the transfer of an ownership interest, the execution of a land contract or the exercise of an option to purchase property.

h. "Time of sale", transfer or conveyance means the time when a written purchase agreement is executed by the buyer; in the absence of a purchase agreement, it shall mean the time prior to the execution of any document providing for the transfer or conveyance of a one-or 2-family dwelling in the designated reinvestment areas.

**3. CERTIFICATE OF CODE COMPLIANCE REQUIRED.** a. Persons acquiring an ownership interest within the designated reinvestment areas within the city, as a result of a sale, transfer or conveyance of a one or 2-family dwelling shall, within 15 days of sale, transfer or conveyance, apply for a certificate of code compliance.

b. Persons acquiring an ownership interest as the result of a sale, transfer or conveyance of a non-owner occupied one or 2-family dwelling within the city shall within 15 days of sale, transfer or conveyance, apply for a certificate of code compliance.

c. Any person selling, transferring or conveying an ownership interest in a one or 2-family dwelling shall expressly inform any person acquiring or receiving an ownership interest in a property that a certificate of code compliance is required by the city.

**4. EXCEPTIONS.** This section shall not apply:

a. To an agency or subdivision of the city, county, state or federal government.

b. To trustees in bankruptcy or any other person acting under the direction or authority of any state or federal court, except that in the case of sale for a personal representative or guardian appointed by probate court, or a sale ordered by a probate court.

c. To sales of condominiums or to the sale of individual residential units being converted to condominiums.

d. To the sale or transfer of ownership between father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson or granddaughter.

e. To the sale, transfer or conveyance of property for which a valid certificate of code compliance is still in effect.

**5. APPLICATION FOR INSPECTION.**

a. When a certificate of code compliance is required, an application for inspection shall be filed with the department on forms provided by the department within 15 days of the sale or transfer or conveyance of the property. The application shall be signed by the owner, and it shall state the street address of the dwelling to be inspected, the owner's legal name, the owner's phone number and date of birth, and, if applicable, the buyer's name, address, phone number and date of birth. The application for inspection shall be accompanied by the payment in full of the fee required in s. 200-33.

b. Failure to apply for the certificate of code compliance as required in this section may result in the department initiating the certificate of code compliance process and the department assessing double the required fee in s. 200-33-7.

c. The application for the certificate of code compliance shall be valid for one year from the date of the original inspection.

d. In the event of a sale, transfer or conveyance of a property within 3 months of the initial code compliance inspection, the new application fee shall be waived if the new owner submits an application as required by this section.

e. A certificate of code compliance application shall not be transferable.

**6. INSPECTION PROCEDURE.**

a. Upon proper application and the payment of the required fee, the department shall send a building inspector to inspect the exterior condition of the dwelling for its conformity with the building maintenance code.

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b. The department shall issue a certificate of code compliance only after it has inspected the dwelling and found that its observable exterior conditions conform to the building maintenance code and that there are no outstanding orders issued against it pursuant to s. 308-81.

c. The certificate of code compliance shall be valid for one year after the date of issuance.

**7. ENFORCEMENT.** a. **Hazardous Conditions.** Should the department upon inspection determine that there are conditions which constitute an imminent danger to health and safety, it may order the condition to be remedied and may limit or prohibit occupancy where appropriate.

b. **Nonhazardous Conditions.** Should the department upon inspection determine that there are code violations which do not constitute an imminent danger, the owner may be issued a temporary certificate of code compliance and given a specified number of days to remedy the violations.

c. **Reinspection.** c-1. The department shall reinspect the premises as necessary to determine that the recorded code violations have been satisfactorily corrected. A reinspection fee may be charged in accordance with s.200-33-48.

c-2. The department shall issue a certificate of code compliance after finding that all of the violations have been satisfactorily corrected.

d. **Uncorrected Violations.** Failure to abate violations cited as a result of the inspection pursuant to an application for a certificate of code compliance constitutes a violation of the building maintenance code and may result in the enforcement measures normally instituted by the department in such instances. The department may cancel the application if the owner fails to abate such violations.

### 200-53. Residential Rental Certificate.

**1. PURPOSE.** Pursuant to s. 62.11 (5), Wis. Stats., and s. 4-10 of the Milwaukee city charter, the common council is responsible for the management and control of city property, acting for the good order of the city and the health, safety and welfare of the public. The common council has determined that there is a need to enact legislation requiring residential rental certificates to protect the public because residential rental dwelling units in the areas defined by census tracts 99-102,117-120 and

the western portion of census tracts 103 and 116, with the eastern boundary defined by interstate I-43; and those bounded by Edgewood Ave. to Newberry Blvd. and Cambridge Ave. to Hackett Ave. are in need of inspection to prevent deterioration, taking into account the density of rental units, age of buildings, percentage of complaints occurring at rental units, and condition of the units in the area. Frequent inspection of these units is necessary to maintain safe, decent and sanitary living conditions for residents living in the rental units and to protect the investment made by the city in the area defined by census tracts 99-102,117-120 and the western portion of census tracts 103 and 116, with the eastern boundary defined by interstate I-43, and due to high tenant turnover in the area bounded by Edgewood Ave. to Newberry Blvd. and Cambridge Ave. to Hackett Ave.

#### **2. DEFINITIONS.** In this section:

a. "Building maintenance code" means that portion of the building code which establishes the minimum requirements and standards of health, sanitation, safety and occupancy for residential property. These regulations governing the condition and maintenance of residential property, and the responsibility of property owners are set forth in ss. 275-32 to 275-82.

b. "Conditions which effect safe, decent and sanitary living conditions of persons occupying a residential rental unit" include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of adequate heating systems or equipment; items which effect the safe operation of electrical and mechanical systems; items which effect structural integrity of the building or the ability of the building envelope to keep out the weather; or one or more conditions that if not corrected would be reasonably expected to become conditions that effect the safe, decent and sanitary conditions of the occupants.

c. "Disqualifying violation" means conditions which effect safe, decent and sanitary living conditions of persons occupying a residential rental unit, or other conditions that violate the provisions of the building code, building maintenance code or zoning code that indicate in their totality that the rental unit is not being properly maintained.

d. "Designated residential area" means:

1. The area defined as inspection district 1 which consists of census tracts 99-102,117-120 and the western portion of census tracts 103 and 116

with the eastern boundary defined by interstate I-43.

2. The area defined as inspection district 2 which is the area bounded by the following streets: Edgewood Ave. to Newberry Blvd. and Cambridge Ave. to Hackett Ave.

e. "Dwelling" means a building which includes one or more distinct living units. It does not include a residential 2-family building in which one of the units is owner-occupied.

f. "Owner" has the meaning as set forth in s. 200-08-66.

g. "Residential rental certificate" means a written and signed statement prepared by the commissioner after an inspection has been made, that the condition of a dwelling is in compliance with the building maintenance and zoning code.

h. "Person" includes an individual, a partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.

i. "Sale, transfer or conveyance of ownership" means to transfer any ownership interest in a dwelling except by mortgage, gift, devise or bequest. The sale or transfer shall be deemed to occur upon the transfer of an ownership interest, the execution of a land contract or the exercise of an option to purchase property.

j. "Time of sale, transfer or conveyance" means the time when a written purchase agreement is executed by the buyer; in the absence of a purchase agreement, it shall mean the time prior to the execution of any document providing for the transfer or conveyance of a dwelling in the designated residential area.

k. "Unit" means any independently rented living space whose term of lease is 30 days or greater.

L. "Zoning code" means any requirements and standards set forth in ch. 295.

**3. RESIDENTIAL RENTAL CERTIFICATE REQUIRED.** a. The owner of a dwelling within the designated residential area shall apply for a residential rental certificate for each unit in order to rent the unit. Unless a unit has a valid residential rental certificate or temporary residential rental certificate, no owner of the unit shall permit any person to occupy the unit as a tenant or otherwise. A residential 2-family building that is owner-occupied is exempt from this requirement.

b. Changes in ownership interest as the result of a sale, transfer or conveyance of a

dwelling within the designated residential area will require the new owner within 30 days of sale, transfer or conveyance, to apply for a residential rental certificate, subject to the provisions of sub. 6-e.

c. Any person selling, transferring or conveying an ownership interest in a dwelling shall expressly inform any person acquiring or receiving an ownership interest in a property that a residential rental certificate is required by the city.

**4. APPLICATION.**

a. An application for a certificate shall be filed with the department on forms provided by the department within 30 days of January 1, 2010 and within 30 days of the expiration of a certificate. The application shall be signed by the owner, and shall state the street address of the dwelling to be inspected, the owner's legal name, the owner's phone number and date of birth.

b. Failure to apply for the residential rental certificate as required in sub. 3-b may subject the owner to the penalties specified in sub. 13-a.

**5. INSPECTION.**

a. Upon application, the department shall inspect the condition of the dwelling for compliance with the building maintenance and zoning code. The department shall make the inspection within 60 days of the date of application unless another date is mutually agreed upon by the department and the owner. Failure to provide access to the property on the agreed inspection date will subject the property owner to the fees specified in s. 200-33-49.5-d. The owner shall inform the tenant of the unit and place a posting on the door of the unit stating the date and time of the inspection at least 2 days prior to the inspection.

b. If a multifamily building has 10 or more units, the department shall inspect a sampling of dwelling units, of not less than 2 and not more than 10% of the dwelling units in the multifamily building. In no event will the department charge a fee for more than 10 units in a building. If the department determines upon inspection of the sampling of dwelling units there are code violations that effect the safe, decent and sanitary living conditions for the tenants of the multifamily building, then the department shall inspect another sampling of units up to 100% of the dwelling units as deemed necessary to enforce the provisions of the code. The number of the second sampling will be based on the degree of the conditions discovered in the inspected units. In that case, the fee shall be based upon the

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charge per unit inspected as provided in section 200-33-49.5.

c. An owner is not exempt from complying with all other applicable laws, standards and regulations pertaining to the condition and use of buildings and structures including the authority of the commissioner to perform housing inspections in accordance with applicable law.

### 6. ISSUANCE OF CERTIFICATES.

a. The department shall issue a residential rental certificate only after it has inspected the dwelling or unit and found that its observable conditions conform to the building maintenance and zoning codes and that there are no outstanding orders against it. The certificate shall be valid for 4 years from the date of issuance if the inspection discovered no disqualifying violations.

b. If upon inspection of the dwelling or unit the department finds one or more disqualifying violations, then the department shall issue a one-year residential rental certificate only once all observable conditions conform with the building maintenance and zoning codes.

c. The commissioner may issue a temporary certificate if, in the commissioner's opinion, the outstanding violations do not constitute a hazard to the occupants of the dwelling or unit and if a work plan to correct the violations is submitted and approved by the commissioner. The temporary certificate shall be valid for 30 days and the commissioner may grant an extension if a revised work plan to correct the violations is submitted and approved by the commissioner. Failure to abate violations discovered resulting from inspection associated with the application for the certificate shall invalidate the temporary certificate, and no owner of the dwelling or unit shall permit any person to occupy the dwelling or unit as a tenant or otherwise.

d. If after issuance of a 4-year certificate the department subsequently finds the dwelling or unit has disqualifying violations or a pattern of repeated building or zoning code violations, the department may revoke the 4-year certificate and in lieu thereof issue a one-year certificate after the violations have been corrected. The dwelling or unit shall again be eligible for a 4-year certificate only upon the expiration of the annual certificate, and as of the first subsequent annual inspection, no disqualifying violations are found. The commissioner may also revoke either a 4-year or one-year certificate if he or she determines

that violations are of a critical nature that constitute an unsafe or unfit condition that results in orders issued under ss. 200-11-5 or 200-12.5.

e. In the event of a sale, transfer or conveyance of a property within 3 months of the initial issuance of the certificate, the certificate may be transferred to the new owner until the end of a certificate valid for one year, or one year from the date of issuance of the certificate in the case of a 4-year certificate, provided the new owner submits an application as required by sub. 4. No inspection shall be required pursuant to this paragraph.

f. No owner of the dwelling or unit in the designated inspection districts which does not possess a valid rental certificate for that dwelling or unit shall permit any person to occupy the dwelling or unit as a tenant or otherwise. Upon discovery of units occupied without a certificate the department will initiate enforcement action to gain access to the property, including inspection warrants, to determine code compliance.

### 7. VIOLATIONS IDENTIFIED.

a. Any building maintenance and zoning code violations identified in the initial inspection for a residential rental certificate shall be abated within a reasonable amount of time to be determined by the department.

b. Any violations identified after a residential rental certificate has been issued shall be abated within a reasonable amount of time to be determined by the department and subject to the provisions of the code.

### 8. ENFORCEMENT.

a. Should the department upon inspection determine that there are conditions which constitute an imminent danger to health and safety pursuant to chs. 275 and 295, it shall order the condition to be remedied and may limit or prohibit occupancy where appropriate.

b. The department shall reinspect the premises as necessary to determine that the recorded code violations have been satisfactorily corrected. A reinspection fee may be charged in accordance with s. 200-33-48.

### 9. DEPARTMENTAL REVIEW AND APPEALS.

a. The owner may request review of decisions regarding violations or regulations imposed by the department. The request shall be made in writing on forms provided by the department and shall specify the grounds for administrative review. The request for administrative review shall be filed within 10 days of the issuance of the order.

b. The administrative review hearing shall occur within 10 days after receipt of the request.

c. The commissioner, or the person appointed as the commissioner's designee, shall conduct the administrative review hearing. At the hearing, owner and staff shall present all relevant information to the case.

d. Within 7 days of completion of the hearing conducted under this subsection, the commissioner shall mail or deliver to the owner his or her written determination stating the reasons therefore.

e. If an owner is not satisfied by the decision reached by the commissioner, he or she may make further appeal to the standards and appeal commission pursuant to s. 200-17.

**10. REVOCATION.** A certificate of residential rental code compliance may be revoked at the discretion of the commissioner if violations which are considered to be an unfit or unsafe condition pursuant to sub. 6-d are observed during a complaint investigation.

**11. RULES AND REGULATIONS.** The commissioner shall issue rules and regulations for the administration of this section.

**12. REMEDIES; OTHER PROVISIONS.** a. The remedies provided in this section are not to be construed to be exclusive of any other remedy under this code, and the department may take further actions to ensure compliance with this section including, but not limited to, seeking injunctive relief and obtaining inspection warrants.

b. Nothing in this section shall be construed to limit the authority of the department to perform housing inspections in accordance with this code.

c. Nothing in this section shall limit the department from enforcing any other provision of the code or any state or federal law under its jurisdiction.

d. Nothing in this section shall be construed to relieve or exempt any person from complying with all applicable laws, this code, and standards and regulations relating to the condition and use of buildings and structures.

e. Nothing in this section shall limit, impair, alter or extend the rights and remedies of persons in the relationship of landlord and tenant that exist under applicable law.

**13. PENALTY.**

a. An owner failing to apply for a residential rental certificate of compliance shall be subject to a forfeiture of \$100 for the first failure to apply. The owner shall be subject to a

forfeiture of \$150 for failure to respond to each subsequent notice to apply which shall be sent by the department.

b. An owner failing to comply with any other provisions of this section shall be subject to the penalties provided in s. 200-19.

**S. 200-53 administrative implementation:**

a. Within 30 days of January 1, 2010, notification of all known property owners of impacted residential rental properties shall occur stating the need to apply for a certificate and to schedule the required inspections. The notification will include an inspection date that is at least 60 days past the date of the notification. The notification will include the required fees, and include a rental certificate application form, and a pre-inspection checklist to be utilized by the owner.

b. For purposes of phasing in s. 200-53, interim rental certificates shall be issued by the department and remain valid until the department conducts its initial inspection. The interim certificate shall be revoked if the owner fails to provide access to the dwelling or units on the inspection date specified in s. 200-53-4-a.

c. Within 4 ½ years of January 1, 2010, the commissioner of neighborhood services shall evaluate the results and effectiveness of the pilot program pursuant to s. 200-53 and report to the common council these results and potential improvements to be made. The authorization of this pilot program shall expire 5 years from January 1, 2010 unless reauthorized by the common council. No additional inspection areas shall be added within the period of the pilot program.

**200-55. Home Occupations.**

**1. PURPOSE AND INTENT.** The purpose and intent of this section is to permit residents of the city a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal and family income. This section is also intended to protect residential areas from adverse impacts of activities associated with certain home occupations.

**2. CERTIFICATE REQUIRED.** Any person engaged in a home business requiring a license or permit from the city must first obtain a certificate of home occupation from the commissioner of neighborhood services and pay the fee specified in s. 200-33-24.5. An application for a certificate of home occupation shall be filed with the department of neighborhood services on forms provided by the department. An inspection may be required prior to issuance of the certificate.

**3. REQUIREMENTS.** All home occupations shall comply with the requirements

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provided in ss. 295-503-3-c, 295-603-4-c and 295-803-4-c.

### 200-61. Architectural Review Board.

1. PURPOSE AND FINDINGS. The common council finds that the physical and architectural character of certain neighborhoods and locations in the city require special regulation with respect to the alteration, rehabilitation and construction of buildings, structures or sites because of significant historical, cultural, social or commercial attributes. In order to promote this goal, an architectural review board is created to review all applications for the alteration, rehabilitation or construction of any building, structure or site in a designated district, except for those exempted under sub. 10, prior to the issuance of permits under s. 200-24 by the department of city development.

2. DEFINITIONS. In this section:

a. "Alteration" means any material change in the exterior appearance of any building, structure or site in the district.

b. "Board" means the architectural review board.

c. "Certificate of appropriateness" means a certificate issued by the board approving the alteration, rehabilitation or construction of any building, structure or site in the district.

d. "Design guidelines" means guidelines adopted by the common council for the alteration, rehabilitation or construction of any building, structure or site in the district.

e. "District" means the area designated by common council resolution 870501 as business improvement district #2 or the area designated by common council resolution 110693 as the East Side architectural review district. "District" also means such additional areas as may be designated by the common council. Each district created hereunder shall have a separate board.

f. "Rehabilitation" means the improvement of property through repair or alteration.

g. Structure shall include, but is not limited to, a temporary or permanent sign or advertisement placed or erected on the exterior of any building, structure, site or in the public way in the district.

3. COMPOSITION. a. The board shall be composed of 7 members. The members shall consist of one member of the historic preservation commission appointed by its chair; the commissioner of the department of

neighborhood services or the commissioner's designee; one member of the common council representing the district under sub. 2-e or the council member's designee, and 4 citizen members appointed by the mayor and confirmed by the common council. A majority of the citizen members shall own or occupy property in the district. Citizen members and the historic preservation commission member shall be appointed for terms of 3 years or until their successors are appointed and confirmed. Members may be reappointed to succeeding terms.

a-1. Members shall be appointed no later than 60 days after the third Tuesday in April in even-numbered years to 2-year terms expiring on the third Tuesday of April 2 years thereafter. When a vacancy occurs in a board position the appointing authority shall make an appointment within 60 days after the vacancy occurs.

a-2. The common council board member may designate an alternate in writing by filing with the city clerk's office. The alternate may represent the common council member and exercise all powers of the member when such member is unable to attend board meetings.

b. With respect to any board for any district created after February 18, 2005, 2 of the initial citizen members shall be appointed for one year; one for 2 years and one for 3 years.

c. Citizen members shall be exempt from city service provisions.

d. Citizen members may be removed for cause by the mayor.

e. Board members shall receive no compensation.

f. No member of the board shall vote on any matter that materially affects the property, income or business interest of that member or creates the appearance of a conflict of interest.

4. FUNCTIONS, POWERS AND DUTIES. The board shall:

a. Adopt by-laws, rules and procedures concerning the operation of the board.

b. Designate one of its citizen members, or retain the services of a consultant, as its administrative officer to perform administrative functions pursuant to the direction of the board and to draft decisions, findings and orders for consideration by the board.

c. Utilize the design guidelines when reviewing applications for certificates of appropriateness for the alteration, rehabilitation and construction of buildings, structures and sites in the district.

d. Issue certificates of appropriateness with or without conditions for the alteration, rehabilitation or construction of any building, structure or site in the district.

e. Advise and assist property owners and other persons and groups, regarding the design guidelines, programs and regulations concerning the district.

f. Work closely with the department of neighborhood services to provide training and technical assistance on issues relating to the design, preservation, repair, renovation and maintenance of buildings, structures and sites in the district.

g. Make recommendations to the common council regarding amendments to the design guidelines and the designation of additional areas for inclusion in the district.

**5. CERTIFICATE OF APPROPRIATENESS.** No person or entity shall, with respect to the exterior of any building, structure or site in the district, alter, rehabilitate, or reconstruct all or any part of, undertake any new construction with respect to, or permit any work to be performed upon a building, structure or site, nor shall the commissioner of city development issue a permit for any such work unless a certificate of appropriateness has been issued by the board, as provided in this subsection.

a. **Application.** Applications for a certificate of appropriateness shall be obtained from and filed with the district office which address shall be on file in the city clerk's office.

b. **Review.** b-1. Upon receipt of an application for a certificate of appropriateness for the alteration, rehabilitation or construction of any building, structure or site in the district, the board shall review it at its next regular meeting, provided the application is complete and is received before the board's published deadline for the receipt of applications.

b-2. The board may designate one or more persons to administratively approve applications for certificates of appropriateness that comply with the design guidelines without board review, provided that the board shall first adopt a written policy on the types of projects which may be administratively approved.

b-3. Except as provided in subd. 2, the board shall review the proposed alteration,

rehabilitation or construction project to determine if it complies with the design guidelines. If the proposed project complies with the design guidelines, the board shall find the proposed project appropriate and issue a certificate of appropriateness. If the board finds that the proposed project does not comply with the guidelines, the board shall deny the application and provide written notice of this denial to the applicant within 30 days of such denial.

b-4. In the event that the board denies an application for a certificate of appropriateness pursuant to subd. 3, the applicant may request a public hearing before the board by submitting a written request to the district office within 30 days of the date of denial.

c. **Public Hearing.** c-1. Upon receipt of a written request for a public hearing on the board's denial of an application for a certificate of appropriateness, the board shall schedule the hearing within 45 days of receipt of the request.

c-2. Notice of the public hearing shall be sent by certified mail, return receipt requested, addressed to the applicant's address as stated in the application. Notice shall also be posted by the city clerk, sent to the common council member representing the district and sent, via first class mail, to all recorded owners of property within 500 feet of the building, structure or site in the district that is the subject of the public hearing. Notice shall be provided not less than 10 days prior to the date of the public hearing.

c-3. The notice of public hearing may require the applicant to provide supplemental information, including, but not limited to, photographs, plans, floor plans, elevations or detailed drawings of any building, structure, site or portion thereof.

c-4. The board may grant adjournments for any reason upon good cause.

c-5. At the public hearing the applicant shall be entitled to call witnesses and present evidence in support of the application for the certificate of appropriateness. The board shall take testimony from and consider the evidence of any person in attendance at the hearing. An audiotape record shall be made of all proceedings at the public hearing. Such audiotapes shall be made available to any person upon payment of the reasonable costs to process and reproduce such tapes.

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c-6. After all evidence has been received, the board shall review the record to determine whether, notwithstanding non-compliance with the design guidelines, the application for a certificate of appropriateness should be granted. In making this determination the board shall consider:

c-6-a. Whether the proposed work would alter or affect any significant architectural feature of the building, structure or site upon which the work is to be done.

c-6-b. Whether the proposed alteration, rehabilitation or construction would harmonize with the character and appearance of neighboring buildings, structures or sites within the district.

c-6-c. Whether the proposed alteration, rehabilitation or construction would be consistent with an approved comprehensive land use plan for the district.

c-6-d. The existence of extraordinary circumstances under which strict adherence to the design guidelines would cause a substantial hardship on the applicant provided, however, that such hardship is not self-imposed or based solely on economic grounds.

c-7. Following review of the record from the public hearing, the board shall either affirm its denial of the application for a certificate of appropriateness or grant the application. If denial of the application is affirmed, the board shall notify the applicant of its decision by certified mail, return receipt requested, within 30 days of its decision. The board shall set forth the findings of fact that constitute the basis for its decision. All decisions of the board shall be filed with the commissioners of neighborhood services and city development.

d. Appeals. Applicants may appeal to the common council the denial of an application for a certificate of appropriateness following a public hearing. Appeals shall be in the form of a written request filed with the city clerk within 30 days after the mailing of the certified letter containing the board's decision. The city clerk shall file the appeal with the common council. The council shall hold a public hearing on the appeal and shall, by a majority vote of its members, affirm or reverse the decision of the board.

e. Resubmission of Application. Whenever an application for a certificate of appropriateness is denied, the proposed alteration, rehabilitation or construction project is ineligible for reconsideration for a period of one year following the denial.

f. The board shall issue a certificate of appropriateness within 30 days of the board's decision granting such application or within 30 days of a decision of the common council reversing the denial of an application of a certificate of appropriateness by the board after public hearing.

6. OTHER PERMITS AND APPROVALS REQUIRED. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other necessary permits and approvals required by the city. All other ordinances, rules and regulations of the city remain applicable.

7. COMPLIANCE WITH CERTIFICATES OF APPROPRIATENESS.

a. Within 12 months of the issuance of the certificate of appropriateness, work on the project must begin, shall at all times be in compliance with the certificate and be completed within 24 months of the issuance of the certificate of appropriateness, or the certificate shall be subject to revocation by the board. The board may grant extensions to complete a project upon good cause.

b. Projects approved, started and not completed prior February 18, 2005, shall be granted an extension of 24 months from February 18, 2005.

c. Failure to comply with a certificate of appropriateness shall be a violation of this section. In the event work is being performed without, or not in accordance with, a certificate of appropriateness, the board shall request that a stop work order be issued by the commissioner of neighborhood services.

8. PERMIT REVOCATION. Any permit issued by the commissioner of city development under the terms of this section may be revoked by the commissioner of neighborhood services whenever any of the conditions under which the permit was issued are not complied with.

9. EXCEPTIONS. a. The Henry W. Maier Festival grounds, except for the grounds' perimeter fences, are exempt from the provisions of this section.

b. Ordinary routine maintenance and repair of buildings, structures or sites may be undertaken without a certificate of appropriateness, provided that the work involves routine maintenance or repair of existing features of a building or structure or the replacement of elements of a building or structure with pieces identical in appearance and provided

that the work does not change the exterior appearance and does not require the issuance of a building permit.

**10.** VIOLATIONS. a. Whenever the commissioner of neighborhood services determines that a violation of this section exists or has reasonable grounds to believe that such a violation exists, the commissioner is authorized to order the owner to correct the violation or issue a stop work order, if requested, as provided in sub. 7-c.

b. Any person violating any provision of this section shall be subject to the penalties under s. 200-19.

## **200-Administration and Enforcement**

"For legislative history of chapter 200, contact the Legislative Reference Bureau."

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